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 CITY AND COUNTY OF SAN FRANCISCO,
 PAUL MIYAMOTO IN HIS OFFICIAL CAPACITY AS
 SAN FRANCISCO SHERIFF,

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

JOSHUA SIMON, DAVID BARBER, AND
 JOSUE BONILLA, INDIVIDUALLY AND
 ON BEHALF OF ALL OTHERS
 SIMILARLY SITUATED, DIANA BLOCK,
 AN INDIVIDUAL AND COMMUNITY
 RESOURCE INITIATIVE, AN
 ORGANIZATION,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN
 FRANCISCO, PAUL MIYAMOTO, IN HIS
 OFFICIAL CAPACITY AS SAN
 FRANCISCO SHERIFF,

Defendants.

Case No. 4:22-cv-05541-JST

**DECLARATION OF LIEUTENANT PHILIP
 JUDSON IN SUPPORT OF DEFENDANTS'
 OPPOSITION TO PLAINTIFFS' MOTION
 FOR A PRELIMINARY INJUNCTION**

Judge: Hon. Jon S. Tigar
 Courtroom: Courtroom 6, 2nd Floor
 Hearing Date: January 12, 2023
 Time: 2:00 p.m.

Trial Date: Not Set

DECLARATION OF LT. PHILIP JUDSON

I, PHILIP JUDSON, declare as follows:

1. I am a Lieutenant with the San Francisco Sheriff's Office ("SFSO"). I am currently assigned to the Community Programs Unit of the SFSO, which administers the SFSO's Pretrial Electronic Monitoring Program ("PTEM"). Except where otherwise indicated, the following facts are known to me personally, and if called upon as a witness, I would testify to them competently.

2. I submit this declaration in support of the Opposition to Plaintiffs' Motion for a Preliminary Injunction filed by the City and County of San Francisco and Sheriff Paul Miyamoto.

3. The San Francisco Sheriff's Office, in implementing the PTEM, is enforcing the criminal court's orders.

4. PTEM serves as an alternative to custody for courts considering pretrial supervision of criminal defendants.

5. People on PTEM are ordered by the court to be monitored by the SFSO.

6. The SFSO relies on other peace officers to assist the SFSO in its supervision duties for PTEM because PTEM participants are in the community where other law enforcement agencies have primary jurisdiction. Those supervision duties may include conducting searches as appropriate.

7. Many people assigned to PTEM by the courts have been arrested prior to the current case. Many PTEM participants have multiple cases. Often the cases involve similar charges. Many criminal defendants commit new crimes while wearing a GPS device.

8. Public safety is served by solving crimes and placing people in custody when appropriate for commission of crimes.

9. For example, we have live tracked for San Francisco Police Department a burglary crew that was operating with an EM participant and have live tracked a PTEM participant who stole a car.

10. In response to Plaintiffs' Motion for a Preliminary, the Community Services Unit in conjunction with the Warrant Service Unit ("WSU") collected examples of instances where GPS data from individuals enrolled in PTEM was used to investigate or solve crimes. The following are such instances:

- 1 a. On Thursday night, February 3, 2022, the 7-11 store on Old Mission Road in
2 South San Francisco was violently robbed by two individuals holding guns. The
3 store clerk was pistol whipped, and the suspects escaped with \$50 and a pair of
4 ear buds. Sheriff's Office Deputy Martinez conducted a search in the Sentinel
5 EM system for individuals near the 7-11 at the time of the robbery. An
6 individual on PTEM named Lorenzo Grant was at the 7-11 during the time
7 frame of the robbery. WSU called the South San Francisco Police Department
8 and spoke with Detective Zhang. Zhang emailed surveillance pictures of the two
9 suspects so WSU could compare the photos with those in a database of
10 mugshots that we maintain. WSU were able to positively identify Grant. Deputy
11 Martinez generated a report from the Sentinel EM system confirming Grant had
12 been inside the 7-11 at the time of the robbery. WSU provided the South San
13 Francisco Police Department with Grant's current location which was two
14 blocks away from the 7-11. At 9:00pm, the South San Francisco Police
15 Department took Grant into custody. After interviewing Grant, Grant confessed
16 to the robbery and gave the name of his partner in crime.
- 17 b. Joseph Atchan is a prolific burglar and known to have firearms. In conjunction
18 with the Federal Police and San Francisco Police Department, we placed him at
19 multiple car burglaries. We safely arrested him using his GPS location after a
20 federal warrant was issued.
- 21 c. Erlin Romero is another prolific burglar. He was put on PTEM based on charges
22 for stealing cars. He was arrested multiple times on PTEM for either not abiding
23 by his curfew or for new burglary charges. After car was stolen with a child in
24 it, our GPS data placed Erlin at the scene and was the primary way he was
25 initially identified. He was later arrested on charges of kidnapping.
- 26 d. Damanuel Hightower was placed on PTEM based on burglary charges. Our
27 deputies tracked him using the GPS data to a residential neighborhood in San
28 Francisco. They observed Hightower get out of a stolen car, walk over to

1 another car, and smash the window. Hightower then removed items from the
2 car. Our deputies then arrested him.

3 e. Greg Morten was involved in a homicide. After testifying against his co-
4 defendant and pleading guilty to a reduced charge, he was released to EM
5 before going to prison. Soon after his release, he was arrested in the North Bay
6 with a firearm. He posted bail before law enforcement could obtain a warrant.
7 Once law enforcement obtained a warrant, we tracked Morten to Tanforan Mall
8 in San Bruno, CA. Deputies approached him and he ran. Deputies then caught
9 him and found another gun on his person.

10 f. Vermont Jones was identified as having been at the scene of a home invasion
11 because of his ankle monitor. After reviewing his movement for the day, he was
12 identified as having been at the scene of several other robberies in the Bay Area
13 that day. This string of robberies was discovered based on sharing data with
14 officers in multiple jurisdictions.

15 11. Law enforcement typically shares data for legitimate, law enforcement purposes across
16 agencies and jurisdictions. In my experience, a limitation on law enforcement sharing of data outside
17 of the agency, like the one I understand Plaintiffs request here, would be unprecedented.

18 12. It is the participants' choice to be on PTEM and to commit new crimes while on PTEM.
19 Criminal defendants can opt for no PTEM and stay in jail or to not commit new crimes and abide by
20 the rules set forth by the courts and SFSO while being monitored.

21 13. PTEM participants have an option to decline to be released from jail and not to be
22 monitored as occurs with PTEM. This has happened on occasion.

23 14. The SFSO cannot effectively monitor PTEM participants and enforce court orders if
24 officers must develop probable cause to do so.

25 15. In addition to helping SFSO and other law enforcement agencies with typical law
26 enforcement activities like preventing crimes, PTEM participants' Fourth Amendment waiver in court
27 and the four-way search condition in the Program Rules address needs specific to PTEM including
28 detecting tampering with EM equipment, addressing violations of the EM Program Rules, enforcing

1 stay-away orders, promoting attendance at court hearings, promoting compliance with court-ordered
2 special conditions (e.g. no firearms, no alcohol, or no drugs) and treatment programs ordered by the
3 court, and conducting home assessments for EM home confinement.

4 16. In response to this lawsuit, on September 12, 2022, I searched for requests for EM data
5 of Plaintiffs Joshua Simon, David Barber, and Josue Bonilla in the email inbox for EM data requests
6 and in SFSO's paper records from April through the date of the search. The only request he found
7 from outside SFSO was made by Barber's attorney in his criminal case.

8 17. The following documents are true and accurate copies of documents from SFSO's files,
9 apart from redactions added to private information (e.g. dates of birth, driver's license numbers,
10 Plaintiffs' SF Numbers) irrelevant to the Motion for a Preliminary Injunction for purposes of
11 confidentiality:

12 a. **Exhibit A** to my declaration is a Pre-Sentence Defendant Electronic Monitoring
13 – Court Order concerning Joshua Simon, dated May 27, 2022;

14 b. **Exhibit B** to my declaration is an Agreement and Order Releasing Defendant
15 on Own Recognizance concerning Joshua Simon, dated May 25, 2022;

16 c. **Exhibit C** to my declaration are Electronic Monitoring (EM) Program Rules
17 Pre-Sentenced Participants with the Rules initialed and signed by Joshua Simon on May 28, 2022;

18 d. **Exhibit D** to my declaration is an Electronic Monitoring Program Participant
19 Contract: Pre-Sentenced Individuals signed by Joshua Simon on May 28, 2022;

20 e. **Exhibit E** to my declaration is an Enrollment Notice for Joshua Simon in
21 PTEM on May 28, 2022, reflecting that Simon's "court ordered conditions as well as SFSD program
22 rules and Sentinel participation agreement were reviewed with him by Deputy Cristobal and Case
23 Manager, Estefania Torres, and a copy was provided";

24 f. **Exhibit F** to my declaration are Non-Compliance Notices issued regarding
25 Joshua Simon's participation in PTEM;

26 g. **Exhibit G** to my declaration is a Pre-Sentence Defendant Electronic Monitoring
27 – Court Order concerning David Barber, dated August 13, 2021;

1 h. **Exhibit H** to my declaration is an Agreement and Order Releasing Defendant
2 on Own Recognizance concerning David Barber, dated August 13, 2021;

3 i. **Exhibit I** to my declaration are Electronic Monitoring (EM) Program Rules Pre-
4 Sentenced Participants with the Rules initialed and signed by David Barber on August 18, 2021;

5 j. **Exhibit J** to my declaration is an Electronic Monitoring Program Participant
6 Contract: Pre-Sentenced Individuals initialed and signed by David Barber on August 18, 2021;

7 k. **Exhibit K** is an Enrollment Notice for David Barber in PTEM on August 18,
8 2021, reflecting that Barber's "court ordered conditions as well as SFSD program rules and Sentinel
9 participation agreement were reviewed with him by Deputy Cabuloy and Case Manager, A. Griffith,
10 and a copy was provided";

11 l. **Exhibit L** are Non-Compliance Notices issued regarding David Barber's
12 participation in PTEM;

13 m. **Exhibit M** is email correspondence received from David Barber's attorney and
14 the response by Deputy Bista reflecting misrepresentations by Barber to his attorney and the SFSO
15 about PTEM requirements;

16 n. **Exhibit N** to my declaration is a Pre-Sentence Defendant Electronic Monitoring
17 – Court Order concerning Josue Bonilla, dated May 31, 2022;

18 o. **Exhibit O** to my declaration is an Agreement and Order Releasing Defendant
19 on Own Recognizance concerning Josue Bonilla, dated May 31, 2022;

20 p. **Exhibit P** to my declaration are Electronic Monitoring (EM) Program Rules
21 Pre-Sentenced Participants with the Rules initialed and signed by Josue Bonilla on June 1, 2022;

22 q. **Exhibit Q** to my declaration is an Electronic Monitoring Program Participant
23 Contract: Pre-Sentenced Individuals signed by Josue Bonilla on June 1, 2022;

24 r. **Exhibit R** is an Enrollment Notice for Josue Bonilla in PTEM on June 1, 2022,
25 reflecting that Bonilla's "court ordered conditions as well as SFSD program rules and Sentinel
26 participation agreement were reviewed with him by Deputy Perez and Case Manager, E. Hernandez,
27 and a copy was provided" and that Bonilla "was also informed and provided a map of stay away order
28 of 150 yards from protected person and 50 yards from" a specified address; and

18. Exhibits A through S are records made at or near the time of the acts, events, and conditions described therein by—or from information transmitted by—someone with knowledge. These records are kept in the course of the regularly conducted activities of the SFSO in administering the PTEM program. Making these records was a regular practice of the SFSO in administering the PTEM program the Superior Court in setting conditions of pretrial release for criminal defendants.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on this 28th day of October 2022, at San Francisco, California.

Lt. P. Judson
LIEUTENANT PHILIP JUDSON

